Remarks:

1. Rejections.

Claims 111, 119, and 171-183 stand rejected under 35 U.S.C. § 103(a), as allegedly rendered obvious by Great Britain Patent No. GB 2,232,400B to Johnson in view of Mike Cassidy, *There's A Lot Of Physics In A Glass Of Beer - The Science Of Six Packs*, SAN JOSE MERCURY NEWS, July 31, 1990, at C1 ("Cassidy"), U.S. Patent No. 5,966,966 to Botsaris et al. ("Botsaris"), and Phanny, F: INT: PAPP: GALA INVITE, www.mit.edu/~mbarker/sum97/awar970630.txt, June 30, 1997 ("Phanny"), published on the Massachusetts Institute of Technology web site. Applicants respectfully disagree.

2. 35 U.S.C. § 103(a)

Claims 111, 119, and 171-183 stand rejected as allegedly rendered obvious by Johnson in view of Cassidy, Botsaris, and Phanny. In order for the Office Action to establish a *prima facie* case of obviousness, at least three criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to those of ordinary skill in the art, to modify the primary reference as proposed by the Office Action. (Emphasis added.) Second, there must be a reasonable expectation of success. Third, the prior art references must disclose or suggest all the claim limitations. MPEP 2143. Applicants respectfully submit that the Office Action fails to establish a *prima facie* case of obviousness at least because the Office Action fails to establish a suggestion or motivation to modify Johnson as proposed by the Office Action.

Applicants' independent claim 111 describes "a method of serving draught alcoholic beverage in an open-topped vessel, said beverage comprising a water content and a

dissolved gas content, and said method comprising cooling the beverage to a temperature below freezing point of water at ambient atmospheric pressure, delivering the cooled beverage into said vessel, [and] subjecting said cooled beverage to ultrasound signals." (Emphasis added.)

Johnson describes a beer dispensing system for delivering beer from a beer barrel 11 to a tap 26, such that beer may be dispensed into a vessel 29 via tap 26. The Office Action acknowledges that Johnson does not disclose or suggest cooling the beverage to a temperature below freezing point of water at ambient atmospheric pressure, and delivering the cooled beverage into the vessel, as set forth in Applicants' independent claim 111. See, e.g., Office Action, Page 2, Lines 13-15. Nevertheless, the Office Action asserts that "Cassidy teaches that it was well known to one of ordinary skill in the art that chilling beer in a container, down to a temperature at which it is almost frozen, causes the beer to freeze up when the container is opened, . . . [and] it therefore would have been obvious to cool the beer at the temperature below the freezing point of water to provide ice crystal forming means, which would provide for an iced draught beverage without the addition of ice or water, which would dilute the beverage." Id. at Page 2, Lines 15-20; and Page 3, Lines 1-2. Applicants respectfully disagree with the Office Action's assertions.

For example, Cassidy merely describes the undesirable situation in which a near frozen bottle of beer "freezes throughout" when opened. Based on the teachings of Cassidy, Applicants respectfully submit that one of ordinary skill in the art at the time of the invention would not have been motivated to modify the beer dispensing system of Johnson to cool the beer to a temperature below the freezing point of water at ambient atmospheric pressure prior to dispensing the beer to vessel 29 because Cassidy teaches that such dispensed beer would become frozen throughout vessel 29. (Emphasis added.) Thus, Cassidy basically teaches that modifying

Johnson to cool the beer to a temperature below the freezing point of water at ambient atmospheric pressure prior to dispensing the beer to vessel 29 would result in a beer-flavored ice cube being formed within vessel 29, which is an undesirable outcome. Therefore, at least for this reason, Applicants respectfully submit that the Office Action fails to establish a suggestion or a motivation to modify Johnson in view of Cassidy as proposed by the Office Action. Therefore, Applicants respectfully request that the Examiner withdraw the obviousness rejection of independent claim 111.

Claims 119 and 171-183 depend, directly or indirectly, from independent claim 111. "If an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." MPEP 2143.03 (citations omitted). Therefore, Applicants respectfully request that the Examiner withdraw the obviousness rejection of claims 119 and 171-183.

Conclusion:

Applicants respectfully submit that the above-captioned patent application is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that the prosecution of this application may be furthered by discussing the application, in person or by telephone, with Applicants' representative, we would welcome the opportunity to do so. Applicants are enclosing a check in the amount of $1020.00 covering the requisite large entity fee for a three-month extension of time to respond. Nevertheless, in the event of any variance between the fees determined by Applicants and the fees determined by the U.S. Patent and Trademark Office, please charge or credit any such variance to the undersigned's Deposit Account No. 02-0375.

Respectfully submitted,
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